

SENATE BILL No. 102

AN ACT concerning elections; relating to ballots; relating to the names of political parties; relating to the presidential primary; relating to publication of certain notices after an election; amending K.S.A. 12-523, 25-304, 25-1122f, 25-2908, 25-3002, 25-4501 and 25-4505 and K.S.A. 2002 Supp. 25-302a and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 25-1122f is hereby amended to read as follows: 25-1122f. If an advance voting ballot is destroyed, spoiled, lost or not received by the voter, the voter may request a *provisional* replacement ballot from the county election officer as provided in this subsection. When a request is timely received under this subsection, the county election officer shall deliver the *provisional replacement* ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the *provisional replacement* ballot by mail to the voter at the address contained in the original application. The county election officer shall keep a record of each *provisional* replacement advance voting ballot provided under this subsection. *All such replacement ballots issued by the county election officer shall be deemed to be provisional ballots pursuant to K.S.A. 25-1136 and amendments thereto.*

Sec. 2. K.S.A. 25-2908 is hereby amended to read as follows: 25-2908. (a) Each polling place shall use either: (1) A registration book and a poll book, as defined in K.S.A. 25-2507(a) and K.S.A. 25-2507(b)(1), and amendments thereto; or (2) a registration book, as defined in K.S.A. 25-2507(b)(2), and amendments thereto. The county election officer shall determine which books are used in each county, and which book voters shall sign.

(b) Persons desiring to vote shall give their names, and if required their residence, to the judges of election, one of whom shall announce the name in a loud and distinct tone of voice, and if the name is in the registration books, the member of the election board having the registration record shall repeat the name. For the purpose of identifying voters at the polling place, the voter shall add the voter's signature, as listed in the registration book, to the registration book beside the voter's printed name or to the poll book and the voter shall be allowed to vote. An election board member shall provide the required signature at the request of and on behalf of any voter who is unable to personally affix a handwritten signature by reason of physical disability, visual handicap or lack of proficiency in reading the English language or any voter 65 or more years of age. The judges shall give the voter one and only one of each ballot to be cast at the election, on the upper right-hand corner of each of which shall be written the number corresponding to the voter's number in the registration book or poll books, and the voter's name shall be marked in the registration books and the party affiliation list. If the voter refuses to sign the registration book or poll book, the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto.

If the name of any person desiring to vote at an election is not in the registration books, an election board member shall print the name and address of the person appearing to vote in the registration book or poll book. The person appearing to vote shall add such person's signature to the registration book or poll book beside such person's printed name, as listed in the registration book or poll book, and the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. During the pendency of a challenge other voters shall be given ballots and be permitted to vote.

(c) A voter who has received an advance voting ballot may vote a ~~regular~~ *provisional* ballot on election day at the precinct polling place where the voter resides ~~if the voter first returns the advance voting ballot to a judge or clerk at the precinct polling place. The judge or clerk shall void such advance voting ballot.~~ *If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election.*

Sec. 3. K.S.A. 25-3002 is hereby amended to read as follows: 25-3002. (a) The rules prescribed in this section shall apply to:

- (1) The original canvass by election boards.
- (2) Intermediate and final canvasses by county boards of canvassers.

- (3) Final canvass by the state board of canvassers.
- (4) All election contests.
- (5) All other officers canvassing or having a part in the canvass of any election.
 - (b) Rules for canvassers:
 - (1) No ballot, or any portion thereof, shall be invalidated by any technical error unless it is impossible to determine the voter's intention. Determination of the voter's intention shall rest in the discretion of the board canvassing in the case of a canvass and in the election court in the case of an election contest.
 - (2) The occurrences listed in this subpart (2) shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this subpart (2) shall apply are:
 - (A) Whenever a voting mark shall be made in the square at the left of the name of more than one candidate for the same office, except when the ballot instructs that more than one candidate is to be voted.
 - (B) Whenever a voting mark is placed in the square at the left of a space where no candidate is listed.
 - (3) *When a registered voter has cast a provisional ballot intended for a precinct other than the precinct in which the voter resides but located within the same county, the canvassers shall count the votes for those offices or issues which are identical in both precincts. The canvassers shall not count the votes for those offices or issues which differ from the offices or issues appearing on the ballot used in the precinct in which the voter resides.*
 - (c) A write-in vote for those candidates for the offices of governor and lieutenant governor shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:
 - (1) Both candidates' names are written on the ballot; or
 - (2) only the name of the candidate for governor is written on the ballot.
 - (d) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:
 - (1) Both candidates' names are written on the ballot; or
 - (2) only the name of the candidate for president is written on the ballot.
 - (e) A write-in vote for candidates for state offices elected on a statewide basis other than offices subject to subsection (c) shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.
 - (f) Any advance voting or mail ballot whose envelope containing the voter's written declaration is unsigned, shall be wholly void and no vote thereon shall be counted.

Sec. 4. K.S.A. 2002 Supp. 25-302a is hereby amended to read as follows: 25-302a. Any political party seeking official recognition in this state after the effective date of this act shall file in its behalf, not later than 12:00 noon, June 1, prior to the primary election held on the first Tuesday of August in even-numbered years, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday petitions signed by qualified electors equal in number to at least 2% of the total vote cast for all candidates for the office of governor in the state in the last preceding general election. Such petitions shall declare support for the official recognition of a political party, the name of which shall be stated in the declaration. No political party seeking official recognition shall assume a name or designation which ~~is similar~~, in the opinion of the secretary of state, *is unreasonably lengthy or so similar to that the name or designation of an existing political party as to confuse or mislead the voters at an election.*

Petitions seeking official recognition of a political party shall be substantially in the following form:

PETITION SEEKING THE OFFICIAL RECOGNITION OF
THE _____ PARTY IN THE STATE OF KANSAS

I, the undersigned, hereby declare my support for the official recognition of the _____ Party.

I have personally signed this petition; I am a registered elector of the state of Kansas and the County of _____, and my residence address is correctly written after my name.

NAME OF SIGNER ADDRESS AS REGISTERED CITY DATE OF SIGNING

Appended to each petition page or set of pages shall be an affidavit by the circulator of the petition affirming that such circulator is a resident of the state of Kansas and has the qualifications of an elector in Kansas and that the circulator personally witnessed the signing of the petition by each person whose name appears thereon. The affidavit shall be executed before a person authorized to administer oaths and include the address of the circulator.

Each page of such petition shall bear the names of registered voters of a single county. All petitions shall be grouped according to the county in which each was circulated before being filed with the secretary of state. All such petitions shall be filed at one time. Any related petitions presented thereafter will be deemed to be separate and not a part of earlier filings. County election officers shall cooperate with the secretary of state in verifying the sufficiency of these petitions as required by law.

The secretary of state shall transmit such petitions to the county election officer of each county for which petitions were presented to be examined for sufficiency pursuant to the provisions of K.S.A. 25-3601 *et seq.* and amendments thereto and applicable regulations. Not more than 20 days following receipt of such petitions from the secretary of state, the county election officer shall return these documents to the secretary of state certifying the number of sufficient signatures thereon. The secretary of state shall gather all petitions and determine whether a sufficient number of signatures was submitted. The secretary of state shall forthwith notify the person who submitted the declaration of intent to circulate such petitions of the sufficiency or insufficiency of the number of signatures.

Sec. 5. K.S.A. 25-304 is hereby amended to read as follows: 25-304. All certificates of nomination shall be in writing, shall contain the name of each person nominated, with such person's residence and the office for which nominated. Party certificates of nomination shall designate ~~in not more than two words of which the word "party" shall be one,~~ the political party which the convention, primary election or caucus making the nominations represented; ~~as, for instance, "republican party," "democratic party," "people's party," "populist party," or "prohibition party"; but a compound or hyphenated word shall not be used to designate the name of a political party within the meaning of this act.~~ When electors for president and vice-president of the United States are nominated, the names of the candidates for president and vice-president may also be shown on the certificates. Independent nomination petitions for presidential electors shall contain the names of each elector and the names of the candidates for president and vice-president of the United States, together with the residence of each elector and candidate. The provisions of this section shall not apply to city or school elections, nor to the election of officers for which it is provided by law to be elected at the time of city and school elections.

Sec. 6. K.S.A. 25-4501 is hereby amended to read as follows: 25-4501. (a) Subject to the provisions of this section, there shall be held a presidential preference primary election in the year ~~2004~~ 2008, and every fourth year thereafter.

(b) On or before November ~~3, 2003~~ 1, 2007, and on or before November 1 every fourth year thereafter, the secretary of state shall certify to the governor, to the chief clerk of the house of representatives and to the secretary of the senate a common date in the next succeeding year on which at least five other states will hold a presidential preference primary election, a delegate or mass convention or a caucus of qualified voters at which delegates to a national convention are selected. On or before each such date, if the secretary of state determines that there is no common date on which at least five states are conducting such a selection process in the next succeeding year, the secretary of state shall certify to the governor, the chief clerk of the house of representatives and the secretary of the senate on a date, which shall be on or before the first

Tuesday in April of the next following year, on which the presidential preference primary election shall be held.

(c) The date certified by the secretary of state pursuant to subsection (b) shall be the date on which the presidential preference primary election authorized by subsection (a) shall be held in the state of Kansas.

Sec. 7. K.S.A. 25-4505 is hereby amended to read as follows: 25-4505. The county board of canvassers of each county shall meet at the office of the county election officer unless another place is agreed upon and announced as provided in K.S.A. 25-3105, *and amendments thereto*, at any time between 8:00 and 10:00 o'clock a.m. on the Friday following the day a presidential preference primary election is held and canvass the vote of such preference primary. *The county election officer may move the canvass to the Monday next following the election if notice of such change is published prior to the canvass in a newspaper of general circulation within the county.* Upon completion of such canvass, the county election officer of each county shall prepare an abstract of the vote of the presidential preference primary election in his or her county as such vote is determined by the county board of canvassers and shall promptly transmit the same to the secretary of state no later than the tenth day after the day of the election. Each county election officer shall also post a copy of such abstract in a public place in the courthouse of his or her county.

Every such transmittal shall be made by first class mail or by a messenger. If the secretary of state fails to receive the abstract of the canvass from any county within ~~fourteen (14)~~ 14 days next after the election, he or she shall dispatch a special messenger to obtain a copy of the same, and the county election officer shall immediately, on demand of such messenger, make out and deliver to such messenger the copy required. Thereupon, the messenger shall deliver such copy to the secretary of state, and the secretary of state shall be reimbursed for the expenses of such messenger by such county.

Sec. 8. K.S.A. 12-523 is hereby amended to read as follows: 12-523. Annexation ordinances of cities shall take effect on publication as provided by law, except that any annexation ordinance published within ~~thirty (30)~~ 60 days before any election specified in this section shall become effective on the day following such election, unless such day is also within ~~thirty (30)~~ 60 days before any election specified in this section in which case such ordinance shall become effective on the day following the last such election. Elections to which this section shall apply are: (1) Primary and general election of state, county and national officers, and (2) primary and general city elections, and (3) primary and general school elections. The provisions of this section shall not apply to any special election.

New Sec. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 10. K.S.A. 12-523, 25-304, 25-1122f, 25-2908, 25-3002, 25-4501 and 25-4505 and K.S.A. 2002 Supp. 25-302a are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.